

THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 20th November, 2006

W.P.No.25926 of 1999

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Between :

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M/s. Evershine Granitiles,
Lakshmipuram, Kuppam, Chittoor
District rep. by its Managing Director ... Petitioner

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and

The Kuppam Rural Electricity Coop.
Society Ltd., Kuppam, Chittoor District,
represented by its Managing Director
and another ... Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the 1st respondent in not granting 25% rebate in power tariff to the petitioner for the three years period from 4-2-1995 to 31-3-1997 as highly arbitrary and illegal and consequently to direct the 1st respondent to grant 25% rebate to the petitioner's unit for the said period as per the eligibility certificate issued by the District Industries Centre, Chittoor.

It appears that the petitioner is a small scale industry engaged in the process of cutting and polishing granites, granite tiles, slabs, memorials, slab tiles and kerbs with Electricity service connection Nos.738 and 768 respectively. Respondent No.1 is the supplier of electricity to the petitioner-industry. The General Manager of the District Industries Centre, Chittoor issued a certificate of Registration on 29-3-1995 for the petitioner-industry. Since the petitioner undertaking does not fall in the list of 66 industries not eligible for 25% rebate in power tariff for new industries, the General Manager, District Industries Centre, Chittoor vide Proceedings dated 17-10-1995 issued eligibility certificate to it as to availing 25% rebate. However, the 25% rebate was not allowed in favour of the petitioner from 4-2-1995 to 31-3-1997. In this regard, several representations were made claiming 25% rebate in power tariff for the said period, but there was no

response from the 1st respondent. Therefore, this Writ Petition.

A detailed counter affidavit has been filed by the 1st respondent denying the allegations made by the petitioner and asserting that the respondent-society is bound by its Bye-laws, according to which, the Board of Directors has got to take a decision about the business of the society and the Board of Directors did not take any decision to implement the policies of the State Government; therefore, the petitioner's claim cannot be accepted.

It appears that the State Government has issued G.O.Ms.No.654, Industries and Commerce Department, dated 13-7-1976, wherein 25% rebate in power tariff is granted in favour of the petitioner, since it is a small scale industry. But the said G.O. is not automatically binding on respondent No.1. Unless and until the same is adopted by the Board of Directors of the respondent-society, the petitioner cannot claim as a matter of right for 25% rebate on the electricity supplied to it. The said G.O. contemplates as to granting of 25% rebate in the power tariff charged by the 1st respondent; but that does not mean that the 1st respondent, having collected the tariff, is supposed to return the same to the petitioner herein. If, under the said G.O., the petitioner is entitled, it is always open for it to approach the 2nd respondent and work out its remedies as available under law.

In the circumstances, the Writ Petition is disposed of directing the petitioner to approach the 2nd respondent and file a detailed representation in this regard. On filing such representation, the 2nd respondent shall entertain and dispose of the same, within a period of four weeks from the date of receipt of a copy of this order and communicate the same to the petitioner. No order as to costs.

20-11-2006

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